

FROM :ROSS\_McDONALD

FAX NO. :9253731227

Dec. 15 2003 02:42PM P1

12/15/2003 14:14 FAX 9184991074

O'BANION &amp; RITCHEY LLP

002/005



PATENT

Applicant: ROBERT AUSTIN PORTER  
 Serial No.: 10/809,114  
 Filed: 08/27/2003  
 Title: APPARATUS AND METHOD FOR AUTOMATICALLY GRADING AND INPUTTING GRADES TO ELECTRONIC GRADEBOOKS

Group:  
 Examiner:  
 Docket No. POR1000.02A1

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22213-1450

## COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, SUPPLEMENTAL, NATIONAL STAGE OF PCT, DIVISIONAL,  
 CONTINUATION OR CONTINUATION-IN-PART)

As a below named inventor, I hereby declare that:

### TYPE OF DECLARATION

This declaration is of the following type:

- ☒ utility
- ☐ design
- ☐ supplemental-continuation of PCT Application in the U.S.

NOTE: If the declaration is for an International Application being filed as a divisional, continuation, or continuation-in-part, do not check the next item; check appropriate one of last three items.

- ☐ national stage of PCT
- ☐ divisional
- ☐ continuation
- ☒ continuation-in-part

### INVENTORSHIP IDENTIFICATION

**WARNING:** If the inventors are each not the inventors of all of the claims, an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address, and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention described in

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**SPECIFICATION IDENTIFICATION**

- ☐ the specification filed herewith by the above-named inventors, with the title listed above.
- ☐ the specification filed herewith by the above-named inventors, with the title listed above, and which was amended by the Preliminary Amendment filed herewith.
- ☐ the specification identified above, as amended by the Preliminary Amendment filed herewith.
- ☒ the specification identified above, and which was amended on \_\_\_\_\_.
- ☐ PCT International Application No. \_\_\_\_\_ filed on \_\_\_\_\_, and amended under PCT Article 19 on \_\_\_\_\_ (if applicable).

**ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR**

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 C.F.R. § 1.56.

**PRIORITY CLAIM (35 U.S.C. § 119(a)-(d))**

I hereby claim foreign priority benefits under 35 U.S.C. §§ 119(a)-(d) of any foreign application(s) for patent or inventor's certificate or under 35 U.S.C. § 365(b) of any PCT international application(s) designating at least one country other than the United States of America listed below, and have also identified below any foreign application(s) or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

☒ no such applications have been filed.

☐ such application have been filed as follows.

**PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN 12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS APPLICATION AND ANY PRIORITY CLAIMS UNDER 35 U.S.C. § 119(a)-(d)**

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUMBER	FILING DATE (day, month, year)	PRIORITY CLAIMED UNDER 37 U.S.C. § 119	
			— YES	— NO
			— YES	— NO
			— YES	— NO
			— YES	— NO
			— YES	— NO

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**CLAIM FOR BENEFIT OF PRIOR U.S. PROVISIONAL APPLICATION(S)  
(35 U.S.C. § 119(e))**

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional applications (s) listed below:

PROVISIONAL APPLICATION SERIAL NUMBER      FILING DATE OF PROVISIONAL APPLICATION

60/317,136	09/04/2001

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATIONS  
UNDER 35 U.S.C. 120**

(complete this part only if this is a divisional, continuation, CIP or national stage of PCT)

I/We hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or PCT International application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose information which is material to patentability under 37 C.F.R. § 1.56, which occurred between the filing date of the prior application(s) and the national or PCT International filing date of this application.

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS  
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 U.S.C. 120:**

**1. U.S. Applications:**

SERIAL NUMBER	FILING DATE
10/236,024	09/03/2002

**2. PCT Applications Designating The U.S.**

PCT APPLICATION NUMBER	PCT FILING DATE	U.S. SERIAL NUMBER

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005/005

### POWER OF ATTORNEY

As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the United States Patent and Trademark Office connected therewith.

John P. O'Banion  
James M. Ritchey  
James C. Peacock III  
Steven L. Smith  
Rodger H. Rast  
Richard M. Wiesner

Registration No. 33,201  
Registration No. 32,594  
Registration No. 40,124  
Registration No. 44,343  
Registration No. 45,853  
Registration No. 48,748

Attached as part of this declaration and power of attorney is the authorization of the above-named attorney to accept and follow instructions from my representative(s).

#### SEND CORRESPONDENCE TO:

CUSTOMER NUMBER 8156

John P. O'Banion  
O'BANION & RITCHEY LLP  
400 Capitol Mall, Suite 1550  
Sacramento, CA 95814

#### DIRECT TELEPHONE CALLS TO:

John P. O'Banion  
(916) 498-1010

### DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

### SIGNATURE(S)

Full name of sole inventor: ROBERT AUSTIN PORTER

Inventor's Signature: Robert Austin Porter

Date: 12-15-03 Country of Citizenship: UNITED STATES

Residence: LIVERMORE, CALIFORNIA

P.O. Address: 1056 AUBURN STREET, LIVERMORE, CA 94550